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COUNTY OF CLARK and
STACEY SILVERSTEIN

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

D.O. JANE DOE, an individual; K.Y. JANE
DOE, an individual; L.O. JANE DOE, an
individual; L.O.J. JOHN DOE, an individual;
P.K. JANE DOE, an individual;

Plaintiffs,

vs.

COUNTY OF CLARK, a political
subdivision of the State of Nevada;
STACEY SILVERSTEIN, an individual,

Defendants.

CASE NO. 2:23-cv-01929-APG-MDC

**DEFENDANTS COUNTY OF CLARK &
STACEY SILVERSTEIN'S MOTION
FOR LEAVE TO FILE EXHIBITS TO
MOTION TO DISMISS FIRST
AMENDED COMPLAINT (ECF # 21)
UNDER SEAL**

COME NOW Defendants COUNTY OF CLARK and STACEY SILVERSTEIN, by
and through their his attorneys, FELICIA GALATI, ESQ. and STEPHANIE M. ZINNA, ESQ.
of the law firm of OLSON CANNON & GORMLEY, and hereby seeks leave of this Court to
file Exhibits A, B, C, D and E to the Motion to Dismiss First Amended Complaint under seal
pursuant to Federal Rules of Civil Procedure 26(b)(5)(B) and 5.2 and Kamakana v. City &
Cnty. of Honolulu, 447 F.3d 1172 (9th Cir.2006). This Motion is made and based upon all the

1 pleadings and papers on file herein, the attached points and authorities, and any oral argument
 2 which the Court may choose to entertain at the hearing of this Motion.

3 Defendants understand that “[h]istorically, courts have recognized a general right to
 4 inspect and copy public records and documents, including judicial records and documents” and
 5 a motion to seal documents that are part of the judicial record, or filed in connection with a
 6 dispositive motion, as they are here, must meet the “compelling reasons” standard outlined
 7 in Kamakana v. City & Cnty. of Honolulu, 447 F.3d 1172, 1178 (9th Cir.2006); Williams v.
 8 Nevada Dep't of Corr., 2014 WL 3734287, at *1 (D. Nev. July 29, 2014). A party seeking to
 9 seal judicial records must show that “compelling reasons supported by specific factual
 10 findings...outweigh the general history of access and the public policies favoring disclosure.” Id.
 11 citing Kamakana, 447 F.3d at 1178–79. The court must weigh relevant factors including “the
 12 public interest in understanding the judicial process and whether disclosure of the material could
 13 result in improper use of the material for scandalous or libelous purposes or infringement upon
 14 trade secrets.” Id. citing Pintos v. Pacific Creditors Ass'n, 605 F.3d 665, 679 n. 6 (9th Cir. 2010).
 15 Also, NRS 432B.280 provides that “information maintained by an agency which provides child
 16 welfare services, including, without limitation, reports and investigations made pursuant to this
 17 chapter, is confidential.” This Court has previously sealed Department of Family Services (DFS)
 18 and Child Protective Services (CPS) records and information.

19 On 2/2/2024, this Court entered a Protective Order (#32), including as to DFS documents
 20 and based on NRS 432B.280 which provides that all records and information regarding child
 21 abuse and neglect are confidential. Id. at pp. 2-3.

22 Exhibit A to the Motion to Dismiss is Plaintiff D.O. JANE DOE’s Certificate of Live
 23 Birth obtained and maintained by Department of Family Services (DFS) in its files. Exhibit B
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1 is Plaintiff K.Y. JANE DOE's Certificate of Live Birth obtained and maintained by DFS in its
 2 files. Exhibit C is Plaintiff L.O. JANE DOE's Certificate of Live Birth obtained and maintained
 3 by DFS in its files. Exhibit D is Plaintiff P.K. JANE DOE's Certificate of Live Birth obtained
 4 and maintained by Department of Family Services (DFS) in its files. Exhibit E is the Affidavit
 5 of Marion Biron authenticating Exhibits A, B, C and D and confirming the Plaintiffs D.O. JANE
 6 DOE; K.Y. JANE DOE; L.O. JANE DOE; and P.K. JANE DOE's Dates of Birth per DFS/CPS'
 7 Certificates of Live Birth records.
 8

9 Thus, Exhibits A through E contain confidential information, including the Plaintiffs'
 10 Dates of Birth, which are private under Fed.R.Civ.P. 5.2. Balancing the need for the public's
 11 access to information about minors and their confidential records – the need and statutory
 12 mandate to maintain the confidentiality of that information and those records weighs in favor of
 13 sealing the Exhibits. Pursuant to Fed.R.Civ.P. 5.2, privacy rights, HIPAA, Williams, supra and
 14 Kamakhana, supra and NRS 432B.280, Defendants respectfully request that they be granted
 15 leave to file **Exhibits A, B, C, D and E** to their Motion to Dismiss under seal. Defendants do
 16 not expect Plaintiffs will object to this since, in part, it protects Plaintiffs' interests.
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18 **Defendants are providing this Court with Exhibits A through E filed under seal for this**
 19 **Court to review and requesting this Court seal those Exhibits and are serving those same**
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1 Exhibits on Plaintiffs' attorneys as indicated in the attached Certificate of Service (by mail and
2 electronic mail).

3 DATED this 26th day of February, 2024.

4 OLSON CANNON & GORMLEY

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14 Attorney for Defendants
15 COUNTY OF CLARK and
16 STACEY SILVERSTEIN

17 IT IS SO ORDERED:

18 Dated: February 27, 2024

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21 ANDREW P. GORDON
22 UNITED STATES DISTRICT JUDGE
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